

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**SONNIEL R. GIDARISINGH,  
Plaintiff,**

**v.**

**Case No. 08C0082**

**SERGEANT MALONE, et al.,  
Defendants.**

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**ORDER**

On February 2, 2008, plaintiff, seeking relief under 42 U.S.C. § 1983, was ordered to pay an initial partial filing fee of \$3.87 to the clerk of court within twenty-one days, pursuant to the provisions of the Prison Litigation Reform Act (PLRA). See 28 U.S.C. § 1915(b)(1). On February 8, 2008, plaintiff filed a request for an order directing that the filing fee be deducted from his release account, as he did not have enough money in his regular prison trust account to pay the filing fee. On February 20, 2008, plaintiff renewed this request. As release account balances are irrelevant to the in forma pauperis analysis, I will construe plaintiff's requests for an order as a request to proceed without paying the initial partial filing fee.

Prisoner requests to proceed in forma pauperis are governed by 28 U.S.C. § 1915. Pursuant to that section, prisoners are assessed an initial partial filing fee based on a calculation using the average balance of the prisoner's trust account. Id. § 1915 (b)(1)(A-B). However, the section also provides that "[i]n no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee." Id. § 1915(b)(4).

Given this provision, I conclude that plaintiff's case may proceed notwithstanding the lack of the initial partial filing fee. Plaintiff is still required to pay the full filing fee in

increments, according to the formula set forth in § 1915(b); however, I will not allow his lack of funds to delay his case any longer.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that plaintiff Gidarisingh is permitted to proceed without payment of his initial partial filing fee.

**IT IS FURTHER ORDERED** that plaintiff's motion for order is **DENIED** as moot.

**IT IS ALSO ORDERED** that copies of this order be sent to the warden of the institution where the inmate is confined and to Corey F. Finkelmeyer, Assistant Attorney General, Wisconsin Department of Justice, P.O. Box 7857, Madison, Wisconsin, 53707-7857.

Dated at Milwaukee, Wisconsin this 27 day of February, 2008.

/s

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LYNN ADELMAN  
District Judge